IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 8067 of 2005

Between:

S.R.K.Reddy S/o.Pulla Reddy
APSRTC, Nagarkurnool Bus Depot Mahabubnagar District.

..... PETITIONER

AND

1 The Regional Manager APSRTC
Mahabubnagar Region at Mahabubnagar.
2 The Depot Manager, APSRTC
Nagarkurnool Bus Depot , Mahabubnagar.
3 The Depot Manager, APSRTC
Gadwal Bus depot, Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondents in removing the petitioner from the service is bad , arbitrary, illegal, unjust, without jurisdiction and violative of principles of natural justice by setting aside the Prc.No.E!(61)/2003-NGKL dt.23-3-2005 of R2 herein and consequently direct the respondent herein to reinstate the petitioner into service with all consequential benefits including wages in APSRTC, Nagarkurnool Bus Depot and pass such other order or orders.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court, at the admission stage, made the following :

THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO : 8067 of 2005

ORDER:

The petitioner in effect filed the present writ petition for issuance of Mandamus by way of declaring the action of the respondents in removing him from service, as illegal and arbitrary.

2. Inasmuch as the unauthorized absenteeism for duties from 06-11-2003 & 07-11-2003 and 13-1-2004 to 20-01-2004, charge sheets were filed against the petitioner. Thereafter, a regular departmental enquiry was conducted. The disciplinary authority having accepted the report, dated 01-01-2005, submitted by the Enquiry Officer, a show cause notice, dated 09-02-2005, was issued against the petitioner, for removal from service. Consequently, the proceedings impugned, dated

23-03-2005, were issued by the 2nd respondent-Depot Manager, Nagarkurnool Bus Depot, Mahabubnagar. Challenging the same the present Writ Petition.

3. The learned counsel for the petitioner contended that the 2nd respondent has no jurisdiction to issue impugned proceedings and before issuing the proceedings, no show cause notice was served on the petitioner and therefore, he beseeched the Court to set aside the proceedings dated

23-03-2005.

4. Per contra, the learned standing counsel for the respondents contended that since the charge sheets, relating to the period in which the petitioner was working in the Nagar Klurnool Depot, the 2nd respondent is the competent to pass impugned proceedings, and hence, the said proceedings are sustainable in law.

5 . The main grievance of the petitioner is that the 2nd respondent is not competent to issue impugned proceedings. It is not in dispute that on 31-12-2004, the petitioner was relieved from the depot of Nagar Kurnool. The charges

framed against the petitioner are relating to the absence of duties from 06-11-2003 to till date (07-11-2003) and from 13-01-2004 to 20-01-2004, which constitutes misconduct, when he was working in Nagar Kurnool Depot, and therefore, *prima facie,* the 2nd respondent is competent to issue charge memo though the petitioner was no longer of employee in the said depot and accordingly, he passed the impugned proceedings.

6. The second ground on which the petitioner challenges the dismissal order is that no show cause notice was served on him. As seen from the impugned proceedings, show cause notices were issued on 09-02-2005 and 20-01-2004. Even, it was not served on the petitioner; the same was displayed in the Notice Board. Therefore, it cannot be said that there is violation of principles of natural justice. Even otherwise, the issue can be raised by the petitioner, before the appellate authority, in what manner, the same is caused prejudice to him and since the jurisdiction of the 2nd respondent is found to be untenable, the petitioner can as well, file an appeal before the statutory authority.

7. In the result, the writ petition is disposed of directing the petitioner to file an appeal before the statutory authority i.e, the 1st respondent-Regional Manager, AP State Road Transport Corporation, Mahabubnagar Region, Mahabubnagar. However, it seems the show cause notice was not served on the petitioner, therefore, after filing of the appeal, the same shall be disposed of, in accordance with law, uninfluenced by any of the observations, within a period of two months from the date of receipt of a copy of this order. No costs.

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April 26, 2005

Kvr

To

1 The Regional Manager APSRTC
Mahabubnagar Region at Mahabubnagar.
2 The Depot Manager, APSRTC

Nagarkurnool Bus Depot , Mahabubnagar.

3 The Depot Manager, APSRTC
Gadwal Bus depot, Mahabubnagar.

4 2 C.D copies.